

On page 8, lines 27-28, "As shown in Fig. 9b," is moved to page 9 line 1 before "[W]hen" and on line 28 "when" is capitalized.

On page 8 line 29, after "directed" the phrase --from the source port 155-- is added to describe more fully in the text the disclosure of the drawings.

On page 9, line 1, after "piston" the phrase -- through conduit 156-- , on line 2 "port A is closed," is deleted and on line 4, after "piston" the phrase -- through conduit 158-- are added to describe more fully in the text the disclosure of the drawings.

On page 9 line 11, "Fig. 5e" is replaced with --Fig. 9e-- to correctly define the appropriate figure corresponding to the text.

#### In the Claims:

Replacement pages 11 and 12 are provided for pages 11 and 12 of the application as filed to amending claims as follows:

Replacing "A" with --The-- in claims 2, 3, 4, 5 and 7 for proper format.

Amending claim 6 as shown on Exhibit 1 hereto (where underlining indicates added text and strikethrough indicated deleted text):

#### In the Drawings:

Copies of drawing sheets for Figs. 1, 6a, 6c, 6d and 9a are provided marked in red to show changes in numerals on the drawings corresponding to the changes and additions in the text of the specification described above. Upon approval by the Examiner of the proposed changes, revised formal drawings will be submitted prior to issuance.

#### REMARKS

The Examiner has objected to the drawings under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. Specifically, the Examiner identified the elements of claim 6 "hydraulic pressure source, a first port, a second port, a hydraulic drain, a third port, a fourth port, a first conduit, a second conduit" as not present. The amendments to the specification on pages 8 and 9 and associated number of Fig. 9a demonstrate the presence of the claim elements in the drawings as now more fully described in the specification. Claim 6 has additionally been amended to properly identify the first and third port (port A as described in the specification and now clearly shown on Fig. 9a) as the same and the second and fourth port (port B as described in the

specification) as the same. The additions to the text in the specification add verbal description for features clearly shown in the drawings of the application as filed and no new matter has been added. In view of the amendments, applications respectfully contend that this objection by Examiner is overcome.

Additionally, the Examiner identified “means for supplying pressure” of claim 7 as not identified in the drawings. This objection by the Examiner is respectfully traversed. As shown in Fig. 8 and described in the specification on page 8 lines 6 through 11, exhaust gas provided through gap 142 or in alternative embodiments through feed hole 146 is used to pressurize the relieved back portion 138 of the unison ring.

The Examiner has also objected to the drawings for failing to show “actuation tabs 44”, “elliptical slot 56”, “port A”, “port B”, and “port D”. Proposed corrections to Figs. 16a, 6c, 6d and 9a now properly identify these features are presented to overcome this objection.

The Examiner has objected to the drawings under 37 CFR 184(p)(4) for repetitive use of element numbers 82, 84 and 86. The revisions to the specification on page 5 and the proposed drawing corrections overcome this objection by the Examiner.

The Examiner has rejected claims 6 and 7 under 35 USC 112 as lacking an enabling disclosure. In view of the amendments made to the specification and claim 6 and in view of the traverse of the objection to the drawings regarding the means for supplying air [pressure], withdrawal of the Examiner’s rejection is requested.

The Examiner has rejected claim 6 under 35 USC 112 as indefinite. In view of the amendments to the specification and claim 6, and proposed changes to the drawings for proper enumeration of elements, applicants contend that the Examiner’s rejection has been overcome.

The Examiner has rejected claims 1-4, and 7 Under 35 USC 102(b) as anticipated by Burdette ‘941. The Examiner’s rejection is respectfully traversed. In reciting the elements of the present claims (claim 1) allegedly disclosed in Burdette, the Examiner incorrectly identifies tabs 80 and 82 of Burdette as “actuation tabs” for the vanes. Elements 80 and 82 of Burdette are associated with a cylindrically shaped tube member, as shown in Fig. 4 and described in column 4, lines 15 through 36. The purpose of the tube member is to keep the nozzle ring 38 from rotating and limiting the axial and radial travel of the nozzle ring as well as sealing of the turbine housing from the center housing and has no function in operation of the variable vanes 34. These elements have no operating function similar to the actuation tabs of the present invention which extend

from the upper surface of the vanes to be engaged by the slots in the unison ring to control position of the vanes. See the description in the present specification on page 5, lines 5 – 8, which provides the disclosure in support of claim 1.

The Examiner's statements regarding claims 2 and 3 is similarly traversed for the reasons stated above with respect to claim 1.

With regard to claim 4, the Examiner states that Burdette discloses a hydraulic actuator integral with the center housing. This statement is not supported by the disclosure of Burdette which identifies the actuator 90 as "[t]he actuator shown is a vacuum boost type which is well known in the art." (Column 4, lines 51-52). While Burdet states that "other actuator means can be used to control the movement of the vanes" (col. 4, lines 53-54), no disclosure is made of a hydraulic actuator having a boss integrally cast in the center housing and receiving a piston for actuation of the crank shaft as claimed in claim 4. The actuator of Burdette is a separate pneumatic can arrangement with a diaphragm driving an external rod 24 as shown in Fig. 1. The present invention benefits from the integral casting of the hydraulic actuator boss into the center housing, as described on page 5 line 24 through page 6 line 11, allowing use of the engine oil needed for lubrication of the turbocharger as the hydraulic fluid for actuation of the valve. Further, the Examiner's reference to element 40 of Burdette as means for controllably varying hydraulic pressure is erroneous in that element 40 is a bellville spring or washer (see col. 4, lines 8-14 and Fig. 4) used to bias the nozzle ring 38 and vanes 34 into contact with the side wall 31. Additionally, the Examiner has attributed the function of piston rod to element 56 of Burdette while previously identifying element 56 as having the function of the crank shaft (in reference to claim 1). Applicants respectfully contend that while the Examiner's characterization of element 56 as a crank shaft is correct, attributing a separate character and function to the same element as a piston rod is erroneous. It is contended that the Examiner's basis for rejection is therefore erroneous and withdrawal of the rejection is requestd.

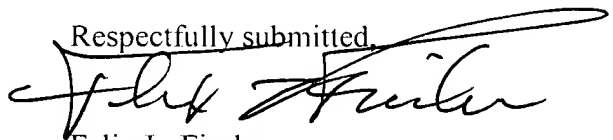
Regarding the Examiner's comments on claim 7, the applicants respectfully draw the Examiner's attention to column 4 lines 8-14, which disclose that the unison ring and vanes are urged against the side wall through the action of the bellville spring, as previously discussed. No disclosure is made of employing air pressure to bias the unison ring against the vane surface as disclosed and claimed in the present application. The Examiner's rejection is therefore without basis and withdrawal of the rejection is requested.

The Examiner has rejected claim 5 as obvious over Burdette in view of Weyer '329. The Examiner's rejection is respectfully traversed. In view of the argument above with respect to the claims from which claim 5 depends demonstrating a lack of disclosure of elements of the combination comprising the invention claimed, applicants respectfully contend that no basis exists for combination of art on which to base an obviousness rejection. Further, the patent to Weyer is directed at a rotary actuator for a drill bit, which the applicants contend is not analogous art that would lend itself to a suggestion for combination. Withdrawal of the Examiner's rejection is respectfully requested.

The applicants note with appreciation the Examiner's identification of claim 6 as providing allowable subject matter if rewritten in independent form including all of the limitation of the base claim and any intervening claims. Claim 6 has been amended to correct the deficiencies on which the Examiner's 112 rejections were based. In view of the arguments rendered above regarding the base claim and intervening claims on which claim 6 depends, applicants contend that claim 6 is allowable in its current form. If base and intervening claims are not subsequently allowed, the applicants will further amend claim 6 as an independent claim for allowance.

The applicants believe that all claims now pending in the application as amended are allowable and action by the Examiner in that regard is requested. The prior art made of record by the Examiner and not relied upon has been noted.

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